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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/057,313	04/08/1998	JOHN D. MCCOWN	033449-002	6282
27805	7590	01/17/2006	EXAMINER	
THOMPSON HINE L.L.P. 2000 COURTHOUSE PLAZA, N.E. 10 WEST SECOND STREET DAYTON, OH 45402			MCALLISTER, STEVEN B	
		ART UNIT	PAPER NUMBER	
		3627		

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/057,313	MCCOWN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Steven B. McAllister	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 17 October 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 16-19,21-23,25-28,32,33,35,38-40,42-44,46-48 and 50-72 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6-19,21-23,25-28,32,33,35,38-40,42-44,46-48 and 50-72 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21, 55, 59, 63, and 72 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 21 recites unloading the vessel by a supplemental reach stacker at the destination. However, the specification does not describe loading with one vehicle and unloading with a supplementary vehicle in such a way to convey to one of ordinary skill in the art that the inventor had possession of the claimed invention at the time of application.

As to claims 55, 59 and 63, the claims recite "said storage deck has a strength sufficient to support about 1,750 pounds per square foot". As phrased, this effectively claims a deck having a deck strength of at least 1750 psf, since any deck having that deck strength or greater would support that loading. The original specification, however, only provides a description of a deck where the "deck strength of the barge 12 is approximately 1,750 pounds per square feet". The original specification does not

describe any amount in excess of this figure in such a way as to reasonably convey to one of ordinary skill in the art that the inventor had possession of the claimed invention.

Claim 72 recites that the lifting step includes lifting the container off a tractor-trailer. Since claim 72 is a dependent claim depending from claim 25, all limitations of that claim are incorporated into claim 72. In that context, the subsequent steps of causing the reach stacker to travel "to or from a storage deck" is not disclosed. The specification only describes picking a container up from a trailer and transporting over the ramp to the ship, not transporting it to or from.

### ***Claim Objections***

Claims 25, 27, 33, 56, 57, 60, 61, 64 and 65 objected to because of the following informalities as described below. Appropriate correction is required.

As to claims 56, 60, 64, the claims recite a beam "at least about ¼ of its length". However, the original specification described only a beam "approximately 1/4<sup>th</sup> the length". The original specification does not describe any amount in excess of this figure in such a way as to reasonably convey to one of ordinary skill in the art that the inventor had possession of the claimed invention.

As to claims 57, 61, and 65, the claims recite a ramp having a length "at least about 75 feet". However, the original specification described only a ramp "approximately 75 feet in length". The original specification does not describe any

amount in excess of this figure in such a way as to reasonably convey to one of ordinary skill in the art that the inventor had possession of the claimed invention.

Claim 25 is objected to because the disclosed method is unclear. The repeated alternative recitations make it unclear what is being accomplished in the method.

Claim 27 is objected to because it does not appear to further limit the independent claim.

Claim 33 is objected to because "the loading step including a workman or a vehicle at least partially entering into the said container to load said freight" is not described in the original specification in such a way as to convey to one of ordinary skill in the art that the inventor had possession of the claimed invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 25, 26, 32, 46-48, 50-53, 71 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Copie (4,482,285).

Copie shows selecting a containers having freight loaded inside (see e.g., col. 1, lines 13-16); providing a vehicle comprising a reach stacker including a body portion and a gripping portion (see e.g., Fig. 1) including a spreader attachment (see e.g., Fig. 5),

the gripping portion being capable of being raised, lowered, rotated and inclined relative to the vehicle (see e.g., col. 1, lines 45-60); individually lifting and transporting by means of the reach stacker over a ramp and to and from a storage deck of a marine vessel having sufficient strength to support the vehicle and the container (see e.g., col. 1, lines 16-20, 47-52; col. 2, lines 52-60; col. 4, lines 5-20, col. 8, lines 5-10 showing going over ramp); and positioning each container at a desired location (see e.g., col. 4, lines 12-16) and releasing the container; and repeating for a plurality of containers.

As to claims 46, 48, 50 and 52, it is noted that Copie in view of Backteman et al show a vehicle with no outriggers carrying out the recited steps.

As to claims 47 and 51, it is noted that Copie in view of Backteman et al show extending a boom of the reach stacker.

As to claims 71 and 72, it is noted that Copie in view of Backteman et al show lifting the container from a trailer or train (e.g., col. 1, lines 15-20) with the reach stacker.

### ***Claim Rejections - 35 USC § 103***

Claims 16-19, 21, 27, 28, 33, 38, 39, 42-44 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie (4,482,285) in view of Backteman et al (3,691,595).

Copie shows selecting a containers; loading freight into the containers (see e.g., col. 1, lines 13-16); providing a vehicle comprising a reach stacker including a body

portion and a gripping portion (see e.g., Fig. 1) including a spreader attachment (see e.g., Fig. 5), the gripping portion being capable of being raised, lowered, rotated and inclined relative to the vehicle (see e.g., col. 1, lines 45-60); individually lifting and transporting by means of the reach stacker over a ramp and to and from a storage deck of a marine vessel having sufficient strength to support the vehicle and the container (see e.g., col. 1, lines 16-20, 47-52; col. 2, lines 52-60; col. 4, lines 5-20, col. 8, lines 5-10 showing going over ramp); and positioning each container at a desired location.

Copie does not explicitly show securing the containers to the deck.

Backteman et al shows securing the containers to the deck (and to each other in a vertical stack) via semi-automatic twist lock connectors. It would have been obvious to one of ordinary skill in the art to modify the method of Copie by securing the containers to the deck as taught by Backteman et al in order to ensure stability of the containers.

As to claim 23, Copie in view of Backteman et al show all elements of the claim except securing the ramp to a longitudinal rail. However, it is old and well known in the art to secure a ramp to a longitudinal rail (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by securing the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 28, it is noted that Copie in view of Backteman et al show grasping each container by the reach stacker and releasing the container after the positioning step.

As to claim 33, Copie in view of Backteman et al show all elements of the claim, including a workman or vehicle at least partially entering the container to load freight, since it is necessary for a workman or vehicle to do so in order to load the container.

As to claim 33, alternatively Copie in view of Backteman et al show all elements except a workman or vehicle at least partially entering the container to load freight. However, the examiner takes official notice that it is notoriously old and well known in the art for a person or machine to at least partially enter a container to load it. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by doing so in order to facilitate the loading of the container.

As to claim 38, it is noted that Copie in view of Backteman et al show a container having of opposed receptacles wherein the spreader attachment is received in the receptacles (e.g., col. 2, lines 3-10 of Copie).

As to claim 40, Copie in view of Backteman et al show all elements of the claim except securing the ramp with a longitudinal rail using a downwardly extending lip. However, the examiner takes official notice that it is old and well known in the art to secure a ramp to a longitudinal rail using a downwardly extending lip (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by

securing the depending lip of the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 42 and 44, it is noted that Copie in view of Backteman et al show a vehicle with no outriggers carrying out the recited steps.

As to claim 43, it is noted that Copie in view of Backteman et al show extending a boom of the reach stacker.

As to claim 70, it is noted that Copie in view of Backteman et al show lifting the container from a trailer or train (e.g., col. 1, lines 15-20).

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Backteman et al as applied to claim 16 above, and further in view of the Marcon International Webpage printout (hereinafter “Marcon”).

Copie in view of Backteman et al show all elements of the claims except that the deck has sufficient strength to support about 1750 psf. Marcon shows this element (see 2000 psf deck strength). It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by providing the deck strength as taught by Marcon in order to enhance load carrying capability.

Claims 56 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Backteman et al as applied to claim 16 above, and further in view of Grey (4,552,082).

As to claim 56, Copie in view of Backteman et al show all elements except a vessel with a beam to length ratio of at least  $\frac{1}{4}$ . Grey shows such a vessel. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by providing the beam to length ratio of Grey in order to provide a more stable vessel.

As to claim 58, Copie in view of Backteman et al show all elements except a pointed bow. Grey shows a vessel with a pointed bow. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by providing pointed bow as taught by Grey in order to cut through the water more easily

Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Backteman et al as applied to claim 16 above, and further in view of Biaggi (4,441,449).

Copie in view of Backteman et al show all elements of the claim except a ramp of at least 75 ft. Biaggi shows a ramp of 50 meters. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by providing the ramp having a length as taught by Biaggi in order to minimize the angle and to minimize the angle induced by tides.

Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Backteman et al as applied to claim 16 above, and further in view of Breeden (6,390,742).

Copie in view of Backteman et al show all elements of the claim except that the container is lifted from a trailer in the lifting step. Breeden shows lifting a container from a trailer in transferring it to a ship. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by lifting the container from a trailer in order to reduce the need for interim storage on the dock between the two transportation modes.

Claims 35 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Grey (4,552,082).

Copie shows all elements of claim 35 except securing the containers to the deck and towing the vessel to a destination site.

Grey shows these elements. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by securing the containers and towing the ship in order to ensure safety and prevent cargo loss and to provide transportation of the containers.

As to claim 54, it is noted that the bow of Grey is pointed.

Claims 59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of the Marcon International Webpage printout (hereinafter "Marcon").

Copie shows all elements of the claims except that the deck has sufficient strength to support about 1750 psf. Marcon shows this element (see 2000 psf deck

strength). It would have been obvious to one of ordinary skill in the art to modify the method of Copie by providing the deck strength as taught by Marcon in order to enhance load carrying capability.

Claims 60, 62, 64 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Grey (4,552,082).

As to claims 60 and 64, Copie shows all elements except a vessel with a beam to length ratio of at least  $\frac{1}{4}$ . Grey shows such a vessel. It would have been obvious to one of ordinary skill in the art to modify the method of Copie by providing the beam to length ratio of Grey in order to provide a more stable vessel.

As to claims 62 and 66, Copie shows all elements except a pointed bow. Grey shows a vessel with a pointed bow. It would have been obvious to one of ordinary skill in the art to modify the method of Copie by providing pointed bow as taught by Grey in order to cut through the water more easily

Claims 61 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Biaggi (4,441,449).

Copie shows all elements of the claim except a ramp of at least 75 ft. Biaggi shows a ramp of 50 meters. It would have been obvious to one of ordinary skill in the art to modify the method of Copie by providing the ramp having a length as taught by Biaggi in order to minimize the angle and to minimize the angle induced by tides.

Claim 71 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Copie in view of Breeden (6,390,742).

Copie in view of Backteman et al show all elements of the claim except that the container is lifted from a trailer in the lifting step. Breeden shows lifting a container from a trailer in transferring it to a ship. It would have been obvious to one of ordinary skill in the art to further modify the method of Copie by lifting the container from a trailer in order to reduce the need for interim storage on the dock between the two transportation modes.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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